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**Introduced by Senator Peace**February 23, 2001

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An act to amend Section 1770 of the Civil Code, relating to consumer protection.

## LEGISLATIVE COUNSEL'S DIGEST

SB 667, as introduced, Peace. Consumer protection.

Existing law prohibits unfair methods of competition and unfair or deceptive acts or practices undertaken by any person in a transaction intended to result or which results in the sale or lease of goods or services to any consumer, as specified.

This bill would make technical, nonsubstantive changes to these provisions.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 1770 of the Civil Code is amended to  
2 read:

3 1770. (a) The following unfair methods of competition and  
4 unfair or deceptive acts or practices undertaken by any person in  
5 a transaction intended to result or which results in the sale or lease  
6 of goods or services to any consumer are unlawful:

7 (1) Passing off goods or services as those of another.

8 (2) Misrepresenting the source, sponsorship, approval, or  
9 certification of goods or services.

10 (3) Misrepresenting the affiliation, connection, or association  
11 with, or certification by, another.



1 (4) Using deceptive representations or designations of  
2 geographic origin in connection with goods or services.

3 (5) Representing that goods or services have sponsorship,  
4 approval, characteristics, ingredients, uses, benefits, or quantities  
5 ~~which~~ *that* they do not have, or that a person has a sponsorship,  
6 approval, status, affiliation, or connection ~~which~~ *that* he or she  
7 does not have.

8 (6) Representing that goods are original or new if they have  
9 deteriorated unreasonably or are altered, reconditioned,  
10 reclaimed, used, or secondhand.

11 (7) Representing that goods or services are of a particular  
12 standard, quality, or grade, or that goods are of a particular style  
13 or model, if they are of another.

14 (8) Disparaging the goods, services, or business of another by  
15 false or misleading representation of fact.

16 (9) Advertising goods or services with intent not to sell them  
17 as advertised.

18 (10) Advertising goods or services with intent not to supply  
19 reasonably expectable demand, unless the advertisement discloses  
20 a limitation of quantity.

21 (11) Advertising furniture without clearly indicating that it is  
22 unassembled if that is the case.

23 (12) Advertising the price of unassembled furniture without  
24 clearly indicating the assembled price of that furniture if the same  
25 furniture is available assembled from the seller.

26 (13) Making false or misleading statements of fact concerning  
27 reasons for, existence of, or amounts of price reductions.

28 (14) Representing that a transaction confers or involves rights,  
29 remedies, or obligations which it does not have or involve, or  
30 which are prohibited by law.

31 (15) Representing that a part, replacement, or repair service is  
32 needed when it is not.

33 (16) Representing that the subject of a transaction has been  
34 supplied in accordance with a previous representation when it has  
35 not.

36 (17) Representing that the consumer will receive a rebate,  
37 discount, or other economic benefit, if the earning of the benefit  
38 is contingent on an event to occur subsequent to the consummation  
39 of the transaction.



1 (18) Misrepresenting the authority of a salesperson,  
2 representative, or agent to negotiate the final terms of a transaction  
3 with a consumer.

4 (19) Inserting an unconscionable provision in the contract.

5 (20) Advertising that a product is being offered at a specific  
6 price plus a specific percentage of that price unless (1) the total  
7 price is set forth in the advertisement, which may include, but is  
8 not limited to, shelf tags, displays, and media advertising, in a size  
9 larger than any other price in that advertisement, and (2) the  
10 specific price plus a specific percentage of that price represents a  
11 markup from the seller's costs or from the wholesale price of the  
12 product. This subdivision shall not apply to in-store advertising by  
13 businesses which are open only to members or cooperative  
14 organizations organized pursuant to Division 3 (commencing with  
15 Section 12000) of Title 1 of the Corporations Code where more  
16 than 50 percent of purchases are made at the specific price set forth  
17 in the advertisement.

18 (21) Selling or leasing goods in violation of Chapter 4  
19 (commencing with Section 1797.8) of Title 1.7.

20 (22) (A) Disseminating an unsolicited prerecorded message  
21 by telephone without an unrecorded, natural voice first informing  
22 the person answering the telephone of the name of the caller or the  
23 organization being represented, and either the address or the  
24 telephone number of the caller, and without obtaining the consent  
25 of that person to listen to the prerecorded message.

26 (B) This subdivision does not apply to a message disseminated  
27 to a business associate, customer, or other person having an  
28 established relationship with the person or organization making  
29 the call, to a call for the purpose of collecting an existing  
30 obligation, or to any call generated at the request of the recipient.

31 (23) The home solicitation, as defined in subdivision (h) of  
32 Section 1761, of a consumer who is a senior citizen where a loan  
33 is made encumbering the primary residence of that consumer for  
34 the purposes of paying for home improvements and where the  
35 transaction is part of a pattern or practice in violation of either  
36 subsection (h) or (i) of Section 1639 of Title 15 of the United States  
37 Code or subsection (e) of Section 226.32 of Title 12 of the Code  
38 of Federal Regulations.

39 A third party shall not be liable under this subdivision unless (1)  
40 there was an agency relationship between the party who engaged

1 in home solicitation and the third party or (2) the third party had  
2 actual knowledge of, or participated in, the unfair or deceptive  
3 transaction. A third party who is a holder in due course under a  
4 home solicitation transaction shall not be liable under this  
5 subdivision.

6 (b) (1) It is an unfair or deceptive act or practice for a mortgage  
7 broker or lender, directly or indirectly, to use a home improvement  
8 contractor to negotiate the terms of any loan that is secured,  
9 whether in whole or in part, by the residence of the borrower and  
10 which is used to finance a home improvement contract or any  
11 portion thereof. For purposes of this subdivision, “mortgage  
12 broker or lender” includes a finance lender licensed pursuant to  
13 the California Finance Lenders Law (Division 9 (commencing  
14 with Section 22000) of the Financial Code), a residential mortgage  
15 lender licensed pursuant to the California Residential Mortgage  
16 Lending Act (Division 20 (commencing with Section 50000) of  
17 the Financial Code), or a real estate broker licensed under the Real  
18 Estate Law (Division 4 (commencing with Section 10000) of the  
19 Business and Professions Code).

20 (2) This section shall not be construed to either authorize or  
21 prohibit a home improvement contractor from referring a  
22 consumer to a mortgage broker or lender ~~by this subdivision~~.  
23 However, a home improvement contractor may refer a consumer  
24 to a mortgage lender or broker if that referral does not violate  
25 Section 7157 of the Business and Professions Code or any other  
26 provision of law. A mortgage lender or broker may purchase an  
27 executed home improvement contract if that purchase does not  
28 violate Section 7157 of the Business and Professions Code or any  
29 other provision of law. Nothing in this paragraph shall have any  
30 effect on the application of Chapter 1 (commencing with Section  
31 1801) of Title 2 to a home improvement transaction or the  
32 financing thereof.

